

**Scranton Laminated Label, Inc. and Teamsters
Local Union 229 a/w International Brother-
hood of Teamsters Union of America, AFL-
CIO, Petitioner.** Case 4-RC-17491

August 12, 1991

**DECISION AND CERTIFICATION OF
REPRESENTATIVE**

BY MEMBERS DEVANEY, OVIATT, AND
RAUDABAUGH

The National Labor Relations Board, by a three-member panel, has considered determinative challenges in an election held on December 21, 1990, and the hearing officer's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement.¹ The tally of ballots shows 8 for and 6 against the Petitioner, with 4 challenged ballots.

The Board has reviewed the record in light of the exceptions and briefs and has adopted the hearing officer's recommendations that the challenges to the ballots of employees Richardson, Houseknecht, and LaCoe be sustained and that a certification of representative should be issued, for the reasons that follow.²

The Employer contends that the stipulated election agreement is ambiguous as to whether the parties intended to include the challenged voters in the bargaining unit. Thus, according to the Employer, the community-of-interest doctrine must be applied to determine the challenged voters' eligibility to participate in the election.

The hearing officer noted that the parties had entered into a written stipulation, after the close of the hearing, which stated that there were no written job titles, classifications, or descriptions for either the included employees or for those employees whose votes were challenged. Nevertheless, the hearing officer found, and we agree, that the record contained testimony "delineating the principal job duties of pressmen, slitters-rewinders, packers and graphic artists."³ The hearing officer also found, and we agree, that employees Richardson, Houseknecht, and LaCoe do not regularly perform the job duties of either pressmen, slitters-rewinders, packers, or graphic artists.

¹ The unit described in the stipulated election agreement is as follows:

Included: All regular full-time and regular part-time printing pressmen, packers, slitters-rewinders and graphic artists.

Excluded: All other employees including but not limited to casual employees, office clericals, guards and supervisors as defined by the Act.

² In the absence of exceptions we adopt, pro forma, the hearing officer's recommendation that the challenge to the ballot of Jeffrey Lozinger be overruled.

³ The evidence includes the testimony of the Employer's president who gave a salary range for three of the job titles included in the bargaining unit.

In *Viacom Cablevision*, 268 NLRB 633 (1984),⁴ the Board set forth the principles used to determine whether an employee is an eligible voter in an election conducted pursuant to a stipulated election agreement:

[T]o determine whether a stipulation's intent is ambiguous or clear, the Board will compare the express descriptive language of the stipulation with the bona fide titles or job descriptions of the affected employee. If the employee's title fits the descriptive language, the Board will find a clear expression of intent and include the employee in the unit. If the employee's title does not fit the descriptive language, it will also find a clear expression of intent and exclude the employee from the unit. The Board bases this approach on the expectation that the parties are knowledgeable as to the employees' job titles, and intend their descriptions in the stipulation to apply to those job titles. Finally, if the affected employees lack job titles or descriptions, the Board will find an ambiguous expression of intent and directly apply the community-of-interest doctrine to the facts of the case. [Citations omitted.]

In this case the record shows that although there are no *written* job titles, job classifications, or job descriptions, the job titles or classifications used in the bargaining unit description in the Stipulated Election Agreement are applied to employees performing certain principal job duties and are used to describe the employees by both the Employer and the employees.⁵ We also note that the record is silent regarding whether the challenged employees have job titles, classifications, or descriptions. The record, however, shows that these employees do not perform bargaining unit work on a regular basis and they therefore fit the descriptive language of the Stipulated Election Agreement that excludes "[a]ll other employees including but not limited to casual employees, office clericals, guards and supervisors as defined in the Act." We thus conclude, in agreement with the hearing officer, that the objective intent of the parties was to exclude employees Houseknecht, LaCoe, and Richardson. We therefore adopt the hearing officer's recommendations that the challenges to the ballots of Houseknecht, LaCoe, and Richardson be sustained.⁶ As the ballot of employee Lozinger is not determinative, we find that a certification of representative should be issued.

⁴ In *Viacom* the challenged voter's job title had been changed from that of a commercial marketing representative to that of commercial sales representative. Thus, the issue before the Board was whether the challenged voter was a bona fide sales representative, a job title included in the bargaining unit.

⁵ See fn. 3, *supra*.

⁶ In reaching our conclusion we find it unnecessary to rely upon the hearing officer's interpretation of *McCleary Bros.*, 286 NLRB 753 (1987), *C & L Systems Corp.*, 299 NLRB 366 (1990), and *Bay St. Joseph Care Center*, 275 NLRB 1411 (1985).

CERTIFICATION OF REPRESENTATIVE

IT IS CERTIFIED that a majority of the valid ballots has been cast for Teamsters Local Union 229 affiliated with International Brotherhood of Teamsters Union of America, AFL-CIO, and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All regular full-time and regular part-time printing pressmen, packers, slitters-rewinders and graphic artists employed by Scranton Laminated Label, Inc., at its 1949 Newton Ramson Boulevard, Clarks Summit, Pennsylvania, facility excluding all other employees including but not limited to casual employees, office clerical, guards and supervisors as defined in the Act.